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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/789,467	02/27/2004	James R. Stelzer	5887-307U1	8565

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2005 MARKET STREET, SUITE 2200
PHILADELPHIA, PA 19103

EXAMINER	
NGUYEN, BINH AN DUC	
ART UNIT	**PAPER NUMBER**
3713	

DATE MAILED: 10/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

C

Office Action Summary	Application No.	Applicant(s)	
	10/789,467	STELZER ET AL.	
	Examiner	Art Unit	
	Binh-An D. Nguyen	3713	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *27 February 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-13* is/are pending in the application.

4a) Of the above claim(s) *1-7,10,11 and 13* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *8,9 and 12* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *8/16/04*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

This application contains claims directed to the following patentably distinct species of the claimed invention:

Species S1: claims 1-7 and 11.

Species S2: claims 8, 9, and 12.

Species S3: claims 10 and 13.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claims are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record

showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

During a telephone conversation with the applicants' representative, Mr. John Simon on October 13, 2005 a provisional election was made without traverse to prosecute the invention of Species S2, claims 8, 9, and 12. Affirmation of this election must be made by applicant in replying to this Office action. Claims 1-7, 10, 11, and 13 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 12 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 8, 9, and 12 the preambles are vague and indefinite since it is unclear if the applicants claimed a device or the applicants claimed a system. It appears that the applicants claimed an amusement system or network having a plurality of amusement devices.

Further, in claims 8, 9, and 12, it is unclear where is the recited "a wireless broadcast signal" came from. Although the applicants claimed a wireless subsystem, however, it does not appear that the wireless subsystem produce any broadcasting signal. Note that, the applicants should amend the claim to include a wireless communication medium or link which generate a wireless broadcast signal.

In claim 12, the limitation of "a third wireless adapter coupled between the third amusement device and the local power grid" (lines 20-21) has not been disclosed in the specification. Further, it is unclear how the system would work according to that set up.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 8 and 9, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Rakib (US 2002/0019984 A1).

Referring to claim 8, Rakib teaches an amusement communication system comprising: a communication link having a communication medium (wireless LAN,

Fig.4) and a wireless sub-system (Figs.4, 5); a first amusement device (remore control 30 or 70) having a video touchscreen (paragraph 51); and a second amusement device (gateway 10,102)(Figs.3-5) having a controller (CPU 118) and a memory (hard disk 114)(Figs.3,5), the second amusement device being coupled to the first amusement device by the communication link (paragraph 51), the first amusement device communicating with the second amusement device using the communication medium (paragraph 54); wherein, the wireless sub-system including: a first wireless adapter coupled to the first amusement device (paragraph 51, lines 1-6), the first wireless adapter generating a (first) wireless broadcast signal and encoding communication signals onto the (first) wireless broadcast signal, and decoding communication signals from a (second) wireless broadcast signal (Figs.1, 3); and a second wireless adapter coupled to the second amusement device, the second wireless adapter generating the (second) wireless broadcast signal and encoding communication signals onto the (second) wireless broadcast signal, and decoding communication signals from the (first) wireless broadcast signal (Figs.1, 3). Note that, the limitation of encoding and decoding communication signals is inherent from the two-way wireless communication between the remote control and the gateway, e.g., the remote control (PDA, Fig. 9) communicates with the gateway, as taught by Rakib.

Referring to claim 9, Rakib teaches the broadcast signal is in the range of one of radio frequency (RF), infrared (HI) and microwave (paragraphs 51 and 77).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim 12, as best understood, is rejected under 35 U.S.C. 103(a) as being unpatentable over Rakib (US 2002/0019984 A1).

Rakib teaches an amusement communication system as addressed in claim 8 above. Regarding the limitation of the first amusement device being configured to access the controller of the second amusement device to cause the controller to retrieve one of the music files and output the retrieved music file to the audio output of the second amusement device, this imitation is inherent from Rakib's teaching of the gateway include an MP3 server (Fig.5, paragraph 85); and wireless remote transceiver interface sends and receives wireless commands to control the gateway (paragraph 128, lines 11-21).

Rakib does not explicitly teach a third amusement device, having a video touchscreen and a controller; the third amusement devices communicating with the second amusement device; and the third amusement device being configured to access the controller of the second amusement device to cause the controller to retrieve one of the music files and output the retrieved music file to the audio output of the second amusement device. Since the third amusement device functions exactly the same as the first amusement device, it would have been obvious to a person of ordinary skill in the art to use an additional control device to the amusement system of Rakib, e.g.,

using an extra remote control provide convenience, so that other people can access the amusement system from different rooms or locations.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Binh-An D. Nguyen whose telephone number is 571-272-4440. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on 571-272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

BN

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TC3700